

BORDER SECURITY: IS IT ACHIEVABLE ON THE RIO GRANDE?

BY

COLONEL RICHARD J. NORIEGA
United States Army National Guard

DISTRIBUTION STATEMENT A:

Approved for Public Release.
Distribution is Unlimited.

USAWC CLASS OF 2011

This SSCFP is submitted in partial fulfillment of the requirements imposed on Senior Service College Fellows. The views expressed in this student academic research paper are those of the author and do not reflect the official policy or position of the Department of the Army, Department of Defense, or the U.S. Government.



U.S. Army War College, Carlisle Barracks, PA 17013-5050

REPORT DOCUMENTATION PAGE				Form Approved OMB No. 0704-0188	
Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing this collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports (0704-0188), 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. PLEASE DO NOT RETURN YOUR FORM TO THE ABOVE ADDRESS.					
1. REPORT DATE (DD-MM-YYYY) 30-04-2011		2. REPORT TYPE Civilian Research Paper		3. DATES COVERED (From - To) Aug 2010 - May 2011	
4. TITLE AND SUBTITLE Border Security: Is it Achievable on the Rio Grande?				5a. CONTRACT NUMBER	
				5b. GRANT NUMBER	
				5c. PROGRAM ELEMENT NUMBER	
6. AUTHOR(S) Colonel Richard J. Noriega				5d. PROJECT NUMBER	
				5e. TASK NUMBER	
				5f. WORK UNIT NUMBER	
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES) LTG @ Joseph Yakovac, Program Director The University of Texas at Austin 3975 West Braker Lane, Suite 400 Austin, Texas 78759				8. PERFORMING ORGANIZATION REPORT NUMBER	
9. SPONSORING / MONITORING AGENCY NAME(S) AND ADDRESS(ES) U.S. Army War College 122 Forbes Ave. Carlisle, PA 17013				10. SPONSOR/MONITOR'S ACRONYM(S)	
				11. SPONSOR/MONITOR'S REPORT NUMBER(S)	
12. DISTRIBUTION / AVAILABILITY STATEMENT Distribution A: Unlimited					
13. SUPPLEMENTARY NOTES					
14. ABSTRACT Since September 11 th 2001, there has been increased public concern and great political pressure to secure the border area between the United States and Mexico. New legislation increased funding and resources have poured into this effort to secure the border. New tactics and technology and a more active and evolving role by the military have followed to insure that the effort of securing the border is successful. But despite these increased efforts, it is still undetermined if these efforts are successful. This paper provides a brief history of border security, troop activity on the border, new approaches to secure the border, and what metrics are currently used to determine whether these efforts are successful.					
15. SUBJECT TERMS Border Security, US Border Patrol, National Guard, Posse Comitatus Act, Security Approaches					
16. SECURITY CLASSIFICATION OF: UNCLASS			17. LIMITATION OF ABSTRACT UNLIMITED	18. NUMBER OF PAGES 24	19a. NAME OF RESPONSIBLE PERSON
a. REPORT UNCLASS	b. ABSTRACT UNCLASS	c. THIS PAGE UNCLASS			19b. TELEPHONE NUMBER (include area code)

USAWC CIVILIAN RESEARCH PROJECT

**BORDER SECURITY: IS IT ACHIEVABLE
ON THE RIO GRANDE?**

By

Colonel Richard J. Noriega
United States Army National Guard

Colonel Oliver Norrell
Project Adviser

This CRP is submitted in partial fulfillment of the requirements of the Senior Service College fellowship.

The views expressed in this student academic research paper are those of the author and do not reflect the official policy or position of the Department of the Army, Department of Defense, or the U.S. Government.

U.S. Army War College
CARLISLE BARRACKS, PENNSYLVANIA 17013

ABSTRACT

AUTHOR: COL Richard J. Noriega
TITLE: Border Security: Is it Achievable on the Rio Grande?
FORMAT: Civilian Research Project
DATE: 30 April 2011 WORD COUNT: 6,035 PAGES: 24
KEY TERMS: Border Security, US Border Patrol, National Guard, Posse Comitatus Act, Security Approaches
CLASSIFICATION: Unclassified

Since September 11th 2001, there has been increased public concern and great political pressure to secure the border area between the United States and Mexico. New legislation increased funding and resources have poured into this effort to secure the border. New tactics and technology and a more active and evolving role by the military have followed to insure that the effort of securing the border is successful. But despite these increased efforts, it is still undetermined if these efforts are successful. This paper provides a brief history of border security, troop activity on the border, new approaches to secure the border, and what metrics are currently used to determine whether these efforts are successful.

BORDER SECURITY: IS IT ACHIEVABLE ON THE RIO GRANDE?

Introduction

“We can and we must secure our border,” said United States (US) Senator John McCain in an April 2011 television interview.¹ His sentiments are heard frequently from politicians and citizens across this country. His jointly-filed legislation with Senator Jon Kyl, the *Border Security Enforcement Act of 2011*, calls for the deployment of up to 6,000 National Guard troops to the US-Mexico border, along with enhanced barriers, intensified technology, and increased personnel support.²

But will this effort finally secure the Southwest Border? Will the additional \$4 billion that this legislation allocates finally provide the metrics to achieve border security in the southwest United States and along the Rio Grande River?

Military forces have been stepping up to assume greater responsibility in national border operations for more than a quarter century. Since September 11, 2001, the military’s role in border security operations has increased more than any time since the mid-1800’s and early 1900’s.

The primary mission for these military forces has shifted from counter-drug operations to a counter-terrorism operation.³ Key questions that become important include “what is a secure United States border, especially the southwest region? How has the military forces become part of that effort?” and “what will be the military’s future role?” In addition, it must be asked, “how can this increased border security effort, both civilian and military, be measured for success?”

There are different concepts relevant to understanding border security. International border security in the Middle East, for example, is different than border security between European countries.⁴ Another factor in understanding border security is that there is a different perception of “border security” between the US and Canada, as opposed to the US and Mexico. For instance the US-Canadian border “is the longest common border

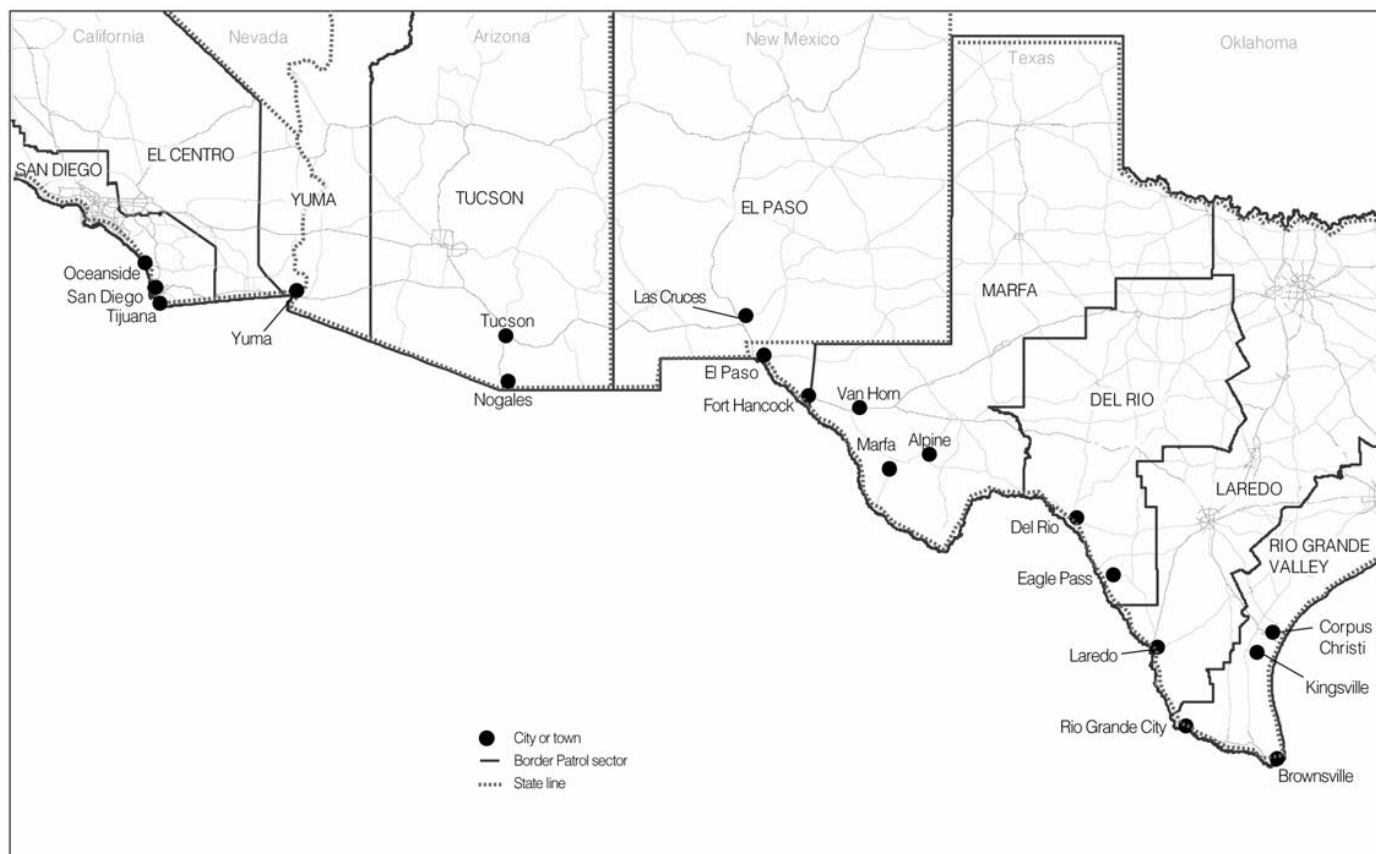
between any two countries that is not militarized or actively patrolled.”⁵ Since the events of September 11, 2001, the southwest border has assumed an even greater significance to national security. This border provides a nexus where three transnational threats converge: drug trafficking, alien smuggling, and terrorism.⁶

What *is* clear is that “border security,” for the purpose of repelling an attack or controlling immigration, human smuggling, weapons or narcotics, is an everyday concern to every nation.⁷ The focus of this discussion is that of the US military involvement on the Southwest border, from California to Texas, where more military operations have occurred over history than any part of the US-Canadian border. At the same time, despite these efforts, despite a doubling of resources, despite a doubling of Border Patrol agents, and despite a new call for additional National Guard involvement, a key question that remains is “is the border secure?” And what measurement or metrics can be used to demonstrate that the border is secure?

Border Security Responsibility

National responsibility for securing US borders belongs to the Department of Homeland Security (DHS), specifically the US Border Patrol. The Office of Border Patrol (Border Patrol), within DHS US Customs and Border Protection (CBP), is responsible for the expanse between US ports of entry, and has divided the responsibility for southwest border miles among nine discrete Border Patrol sectors from California to the tip of Texas. These are: El Centro, CA; San Diego, CA; Tucson, AZ; Yuma, AZ; El Paso, TX; Marfa, TX; Del Rio, TX; Laredo, TX; and Rio Grande Valley, TX.⁸ (Fig. 1)

Figure 1: Border Patrol Sectors along the Southwest Border



Source: GAO-11-374T: GAO (analysis), mapinfo (map), Border Patrol (data)

As mentioned earlier, the priority mission of the Border Patrol has evolved into preventing terrorists and terroristic weapons, including weapons of mass destruction (WMD), from entering the United States. “Undaunted by scorching desert heat or freezing northern winters, they work tirelessly as vigilant protectors of our Nation's borders.”⁹

While much of the mission of the Border Patrol has changed dramatically since its inception over 86 years ago, another primary mission remains unchanged: to detect and prevent the illegal entry of aliens into the United States. Together with other law enforcement officers, the Border Patrol must facilitate the flow of *legal* immigration and goods while preventing the *illegal* trafficking of people and contraband.¹⁰

History

The US-Mexico border is the most active land border in the world. It is the longest meeting point between a rich country and a poor country with intense interaction between law enforcement and lawlessness.¹¹ Military troops, guardsman, active duty and volunteers have been repeatedly deployed since 1845. In Texas border security issues have been ongoing since the end of the *Mexican-American War* of 1848. A string of forts and outposts were built to line the border to reinforce the *Treaty of Guadalupe Hidalgo*, stretching along the Rio Grande River from Fort Brown in Brownsville, TX, all the way north of Fort Bliss in El Paso. Nearly 116,000 troops, regulars, volunteers and militia were mobilized for the Mexican War in 1845 and 4,000 troops were deployed to Corpus Christi, Texas. In 1855, the US Army stationed 3,449 troops in Texas.¹² In 1870-86, 800 troops were sent to Arizona and New Mexico while 2,500 were sent to the outposts along the Rio Grande River.¹³

A raid by Francisco "Pancho" Villa into New Mexico precipitated the *Mexican Expedition* by General John J. "Blackjack" Pershing into Mexico to capture Villa. The Pancho Villa expedition, referred to colloquially as the "Punitive Expedition," was a military operation conducted by the United States Army against the paramilitary forces of insurgent Villa from 1916 to 1917. This effort was in retaliation for Villa's illegal incursion into the United States, and his attack on the village of Columbus and Luna County, New Mexico, during the Mexican Revolution that killed 17 Americans.

President Woodrow Wilson ordered 10,000 Army soldiers to the region. On May 9, 1916, the President ordered the governors of Texas, New Mexico, and Arizona to deploy Guardsmen for border protection. Two days later, 5,260 state soldiers headed to the border. In 1919 about 18,500 troops were deployed to the border in a build up to prepare for the Battle of Juarez. After that battle, about 20,000 troops remained there to guard the US/Mexico Border.¹⁴

Since this time, there have been numerous incidents of cross-border shootings and criminal activity, but they were not of any official paramilitary or state-sponsored

nature.¹⁵ By the 1920's, the Army's prominent role in combating armed raiders and revolutionaries from South of the Border came to a close.

Military Restraint: *Posse Comitatus* and Martial Law

The *Posse Comitatus Act of 1878* prohibits the use of US military forces to perform tasks of civilian law enforcement such as arrest, apprehension, interrogation and detention unless explicitly authorized by Congress.¹⁶ *Posse Comitatus* means "force of the county." The *Posse Comitatus Act* was originally enacted by Congress after the Civil War in response to the suspension of habeas corpus and the creation of military courts with jurisdiction over civilians. The *Posse Comitatus Act* greatly limits, but does not completely eliminate, the power of the President of the United States to declare "martial law:" the assumption of all civilian police powers by the military.¹⁷ Congress passed the *Posse Comitatus Act* as a rider to the military appropriations bill on June 18, 1878. It originally read as follows:

Chapter 263, Section 15, Army as *Posse Comitatus*:

*From and after the passage of this act it shall not be lawful to employ any part of the Army of the United States, as a posse comitatus, or otherwise, for the purpose of executing the laws, except in such cases and under such circumstances as such employment of said force need the expressly authorized by the Constitution or by act of Congress; and no money appropriated by this act shall be used to pay any of the expenses incurred in the employment of any troops in violation of this section, and any person willfully violating the provisions of this section shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by fine not exceeding ten thousand dollars or imprisonment not exceeding two years or by both such fine and imprisonment.*¹⁸

Posse Comitatus was intended to reinstate regular civil authority in the South and to confine the role of the military to that which had been viewed to be appropriate before the Civil War.¹⁹ The traditional role of the Army was interpreted to defend the nation against an invasion from a foreign country. During this period the Army was also

needed for fighting hostile Indians. However, the legislation clearly was never intended to prohibit the Federal government from employing the military in times of civil need.

*The words of the act itself make it clear that Congress did not intend to restrict or limit the President's use of military forces 'in cases and under circumstances' permitted by the Constitution. Congress could not deprive the president of his inherent constitutional authority to respond to a serious domestic emergency.*²⁰

In light of this law, the President has always maintained the authority to employ the military to protect the country from rioters or anarchist. The public has generally agreed with the intent of this law and the use of the military to enforce civil order. "A moderate increase in the Army would endanger no man's liberty, and might conduce much to the maintenance of law and order," said Jerry Cooper in his book *The Army and Civil Disorder*.²¹ The president, with allocated constitutional powers to suppress insurrection, rebellion, or invasion, may declare martial law when local law enforcement and court systems have ceased to function. For example, after the bombing of Pearl Harbor on December 7, 1941, President Roosevelt declared martial law in Hawaii at the request of the territorial governor.²² Since it enforces maritime safety, environmental and trade laws, the Coast Guard is exempt from the *Posse Comitatus Act*.

While Posse Comitatus does not specifically apply to the actions of the National Guard, National Guard regulations stipulate that its troops, unless authorized by Congress, are not to take part in typical law enforcement actions including arrests, searches of suspects or the public, or evidence handling. These restrictions limit the use of the military to perform certain functions on the border.²³

Unilateral versus Cooperative Approach to Securing the Border

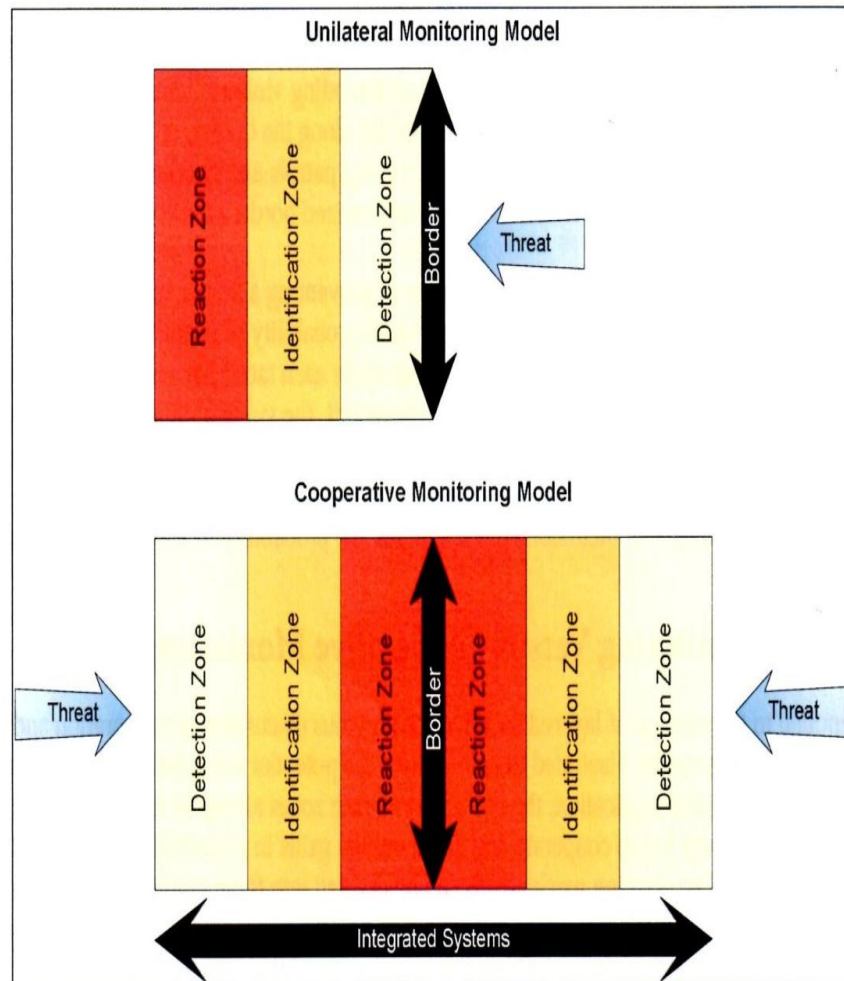
There are two general approaches to securing borders. The *Unilateral Approach* can best be associated with the concept of stopping any entry at the point of contact. Efforts to implement this approach are usually associated with walls, fences, or moats and the like. It is also characterized by a lack of communication and cooperation between the

countries. An example would be the Israel-Lebanon border or the former Berlin Wall. The unilateral example is also usually characterized by cross-border clashes.²⁴

The *Cooperative Security Model* calls for communication and coordination. The 1994 treaty between Israel and Jordan demonstrated that a cooperative approach and identifying issues in depth can bring about greater security results.²⁵

The model is based on the creation of three monitoring zones on each side of the border that act together as an integrated system. The three zones-detection, identification, and reaction-each have a specific function.²⁶ (Fig. 2)

Figure 2: Unilateral and Cooperative Monitoring Models



By Chad C. Haddal Congressional Research Service:
People Crossing Borders: An Analysis of U.S. Border Protection Policies. P. 18.

The US has invested in a comprehensive or cooperative approach to securing the border over the past several decades. Since September 11th, the US has invested more in this model than at any time in its history. Customs and Border Security state in their strategic plan:

Securing the Nation's borders in the post-9/11 environment demands a complex, layered approach. The border is not merely a physical frontier; therefore, effectively securing it requires attention to processes that begin far outside U.S. borders and to all regions of the United States. As such, Customs and Border Protection (CBP) must view border security as a continuum of activities that relies on the physical border as one of the last lines of defense, not one of the first. Consequently, CBP's strategies must address the threats and challenges along the entire continuum. Gaining and maintaining effective control of the Nation's border rapidly and effectively remains one of CBP's highest priorities. CBP's plans to achieve control of the border require the deployment of an optimal mix of resources, including personnel, tactical infrastructure, and technology. In addition, it requires useful intelligence and strong partnerships with Federal, State, local, tribal, and foreign governments, as well as international partners.²⁷

Expanding the Borders

The notion of expanding the border has been a fundamental component of the border protection framework.²⁸ From a practical standpoint, this means pushing information-gathering and traffic control abilities away from the geographic border to areas both in foreign countries and internally in the US.

Since September 11th, the US has invested in not only personnel or “boots on the ground,” but also intelligence gathering, technology, and tactics, to expand the detection areas required to secure the border in depth to achieve a cooperative or comprehensive model. According to CBP they have:

- Doubled the size of the Border Patrol from approximately 10,000 agents in 2004 to more than 20,500 in 2010.
- Increased the number of Immigration and Customs Enforcement (ICE) intelligence analysts along the border focused on cartel violence. In all, a quarter of ICE's personnel are now in the region – the most ever.
- Doubled personnel assigned to Border Enforcement Security Task Forces, multi-agency teams which collaborate to identify, disrupt and dismantle criminal organizations which pose significant threats to border security.
- Increased the number of ICE intelligence analysts along the Southwest border focused on cartel violence;
- Quintupled deployments of Border Liaison Officers, who facilitate cooperation between U.S. and Mexican law enforcement authorities on investigations and enforcement operations.
- Begun screening 100 percent of southbound rail shipments for illegal weapons, drugs, and cash for the first time.
- Deployed National Guard troops to the Southwest border to contribute additional capabilities and capacity to assist law enforcement agencies.
- Expanded Unmanned Aircraft System coverage along the entire Southwest border – from the El Centro Sector in California to the Gulf of Mexico in Texas – providing critical aerial surveillance assistance to border security personnel on the ground.
- Increased the funds state, local, and tribal law enforcement can use to combat border-related crime through *Operation Stone Garden* – a DHS grant program designed to support state, local, and tribal law enforcement efforts along the border. Based on risk, cross-border traffic and border-related threat intelligence, 82 percent of 2009 and 2010 Operation Stone Garden funds went to Southwest Border States, up from 59 percent in 2008.²⁹

More resources have gone toward intelligence and information gathering to secure the border since early 1974 efforts to combat the drug trafficking. At that time the El Paso Intelligence Center (EPIC) was established in response to a Justice Management Division Study entitled, "A Secure Border."³⁰

Since EPIC was established, intelligence centers sponsored by various agencies have evolved. US Border Patrol, the military, and state and local law enforcement agencies

all have intelligence centers. The concept of “Fusion Centers” evolved to act as a collaborative hub among these agencies for the purpose of information sharing and efficiency.

Fusion Centers

Much of the rationale for developing these centers comes from the post-9/11 realization that there was a great deal known about terrorists, but the data points were scattered and did not raise red flags in isolation. Many agencies had a piece of the jigsaw puzzle, but not enough to form a picture of a credible threat.³¹

Fusion Centers are operated by state and local entities, with support from federal partners, in the form of deployed personnel, training, technical assistance, exercise support, security clearances, connectivity to federal systems, technology, and grant funding. State and major urban fusion centers serve as focal points within the state and local environment for the receipt, analysis, gathering, and sharing of threat-related information between the federal government and state, local, tribal, territorial (SLTT) and private sector partners.

Fusion Centers are attempts to deal with clues related to criminal activity that often remain undiscovered in disconnected law enforcement databases. These centers address that challenge by bringing the data into one place or making it accessible from one place, typically on one software platform where analysts can connect the dots.

Primary Fusion Centers

- Arizona Counter Terrorism Information Center
- California State Threat Assessment Center
- New Mexico All Source Intelligence Center
- Southern Nevada Counter-Terrorism Center (Las Vegas, Nevada)
- Texas Fusion Center

Additional Recognized Fusion Centers

- Central California Intelligence Center; Sacramento, CA
- Houston Regional Intelligence Service Center; Houston, TX
- Los Angeles Joint Regional Intelligence Center; Los Angeles, CA
- Nevada Threat Analysis Center; Carson City, NV

- North Central Texas Fusion Center; McKinney, TX
- Northern California Regional Intelligence Center; San Francisco, CA
- Orange County Intelligence Assessment Center; Orange County, CA
- San Diego Law Enforcement Coordination Center; San Diego, CA³²

The CBP is engaged in historic levels of cooperation with Mexico, including signing numerous agreements over the past two years to bolster cooperation in the areas of enforcement, planning, information, intelligence sharing, joint operations and trade facilitation along the Southwest border.

Most recently in August of 2010, Mexico and the US announced the establishment of the Office of Bi-National Intelligence (OBI). This agreement gives US intelligence agents the authority to gather information on organized crime and cartels, while also having the ability to gather information about Mexican government agencies. This initiative houses offices from the Pentagon, the Central Intelligence Agency (CIA), the Federal Bureau of Investigation (FBI), the Departments of Justice, Homeland Security, and the US Department of the Treasury.³³

Tactical Infrastructure/ Border Fence

The Office of Border Patrol (OBP) Program Management provides Border Patrol with long-term planning, construction, and maintenance capabilities – including tactical infrastructure (TI) components such as roads, fencing, lights, electrical components, and drainage structures to help the Border Patrol achieve its border security mission. Originally created under the Secure Border Initiative (SBI) in 2007, the OBP Program Management Office's most visible construction projects have been the pedestrian and vehicle fence projects along the Southwest Border.³⁴ The intent was never to fence the entire southwest border, but to be a component of a comprehensive border security plan. According to CBP as of March 4, 2011, CBP had completed 649 miles of pedestrian and vehicle fencing along the Southwest Border. A total of 350 miles of primary pedestrian fence has been constructed, while the final total of vehicle fence was 299 miles. The project was officially completed on January 8, 2010.³⁵

SBI^{net}

SBI^{net} was a major technology effort focused on the areas between the ports-of-entry on the Southwest Border. The goal of the SBI^{net} program was to integrate new and existing border technology into a networked system that would enable CBP personnel to more effectively detect, identify, classify, and respond to incursions at the border. However in January 2011, DHS announced the termination of this effort after spending over \$672 million, due to cost overruns and the failure of the system to work.³⁶

Evolving Role of the Military

Prior to September 11, 2001, the National Guard had operated along the Southwest Border in conjunction with US Border Patrol and local law enforcement, participating in the “war on drugs.”³⁷ President Ronald Reagan’s *National Security Directive* in the mid-1980’s identified drug trafficking as a national security concern, allowing the establishment of *Joint Task Force 6 (JTF-6)* to support the anti-drug mission.³⁸

After the September 11, 2001 attack, the United States *Northern Command (NORTHCOM)* was established to oversee homeland defense and to coordinate support of civilian authorities.³⁹ The Department of Defense established Northern Command (NORTHCOM) on 1 October 2002. The intent was to consolidate missions that separate organizations provided prior to its creation. The command’s mission is homeland defense and civil support, specifically:

*Conduct operations to deter, prevent, and defeat threats and aggression aimed at the United States, its territories, and interests within the assigned area of responsibilities; as directed by the President or Secretary of Defense, provide military assistance to civil authorities including consequence management operations.*⁴⁰

October 25, 2005, the US House of Representatives and US Senate enacted a joint resolution (*H. CON. RES. 274*) elevating Congress’ stance on the *Posse Comitatus Act*, clarifying the Act in response to increasing concerns about immigration, as well as terrorists and the use of the military on American soil. In part the resolution states:

*...by its express terms, the Posse Comitatus Act is not a complete barrier to the use of the Armed Forces for a range of domestic purposes, including law enforcement functions, when the use of the Armed Forces is authorized by Act of Congress or the President determines that the use of the Armed Forces is required to fulfill the President's obligations under the Constitution to respond promptly in time of war, insurrection, or other serious emergency.*⁴¹

President George W. Bush called up 6,000 National Guard troops as part of *Operation Jumpstart*, in the summer of 2006. Governors were asked to provide National Guardsmen to support the Border Patrol and local law enforcement agencies by providing surveillance, intelligence gathering and reconnaissance support. Troops were also to assist with counter narcotic enforcement duties until additional Border Patrol agents were hired, trained and deployed. Guard troops assisted with engineering support operations such as the construction of roads, fences, surveillance towers and vehicle barriers necessary to prevent illegal border crossings.⁴²

Under the *Defense Authorization Act for FY2007 (H.R. 5122)*, the Secretary of Defense, upon a request from the Secretary of Homeland Security, may also provide additional assistance in preventing terrorists, drug traffickers, and illegal aliens from entering the United States.⁴³ Most recently the Obama Administration deployed an additional 1,600 National Guard troops to the Mexican border in the fall of 2010.

Is the Rio Grande Border Secure?

Examples of metrics that have been used to measure border security success have been collected dealing with apprehensions, seizures and resources applied to the effort. With these measurement tools, Border Patrol has reported that arrests have dropped from 616,000 to 212,000 over the past six years, and the number of border patrol agents on the Southwest line--20,700--is more than double the number of border personnel in 2004.⁴⁴

In February 4, 2011, remarks at the University of Texas, El Paso, Secretary of Homeland Security Janet Napolitano highlighted the Obama Administration's efforts to

strengthen Southwest border security by increasing the number of Border Patrol agents from approximately 10,000 in 2004, to more than 20,700 in 2010; doubling the number of Immigration and Customs Enforcement (ICE) personnel assigned to Border Enforcement Security Task Forces; increasing the number of intelligence analysts working along the US-Mexico border; quintupling deployments of Border liaison officers; and beginning the screening of southbound rail and vehicle traffic for illegal weapons and cash that are helping to fuel cartel violence in Mexico.⁴⁵

DHS has also stepped up labor enforcement, in 2010 arresting a record number of employers who knowingly hired illegal immigrants, and strengthening the efficiency and accuracy of *E-Verify*, the US system of verifying citizenship for employers, which continues to grow by more than 1,000 participating businesses a week, on average, to assist employers in abiding by the law.⁴⁶

In the coming months, DHS will continue to deploy additional resources to the Southwest border, including two new forward-operating bases to improve coordination of border activities, improved tactical communications systems and 1,000 new Border Patrol Agents.⁴⁷

Success or Not?

The recently released *US General Accountability Office Report on Border Security* states that "...the Border Patrol reported achieving varying levels of operational control for 873 of the nearly 2,000 southwest border miles at the end of fiscal year 2010, increasing an average of 126 miles each year from fiscal years 2005 through 2010." ⁴⁸

Table 1: Border Patrol Levels of Border Security

Levels of border security	Definition
Controlled	Continuous detection and interdiction resources at the immediate border with high probability of apprehension upon entry.
Managed	Multi-tiered detection and interdiction resources are in place to fully implement the border control strategy with high probability of apprehension after entry.
Monitored	Substantial detection resources in place, but accessibility and resources continue to affect ability to respond.
Low-level monitored	Some knowledge is available to develop a rudimentary border control strategy, but the area remains vulnerable because of inaccessibility or limited resource availability.
Remote/low activity	Information is lacking to develop a meaningful border control strategy because of inaccessibility or lack of resources.

GAO-11-374T-Source: GAO analysis of U.S. Border Patrol ORBBP documents, P.8.⁴⁹

The two levels of control differed in the extent that Border Patrol resources were available to either **deter or detect and apprehend illegal entries at the immediate border (controlled)** versus a multi-tiered deployment of Border Patrol resources to **deter, detect, and apprehend illegal entries after** entry into the United States; sometimes 100 miles or more away (**managed**). Border Patrol sector officials defined **operational control** as those segments of miles that were either **controlled or managed**.⁵⁰

Border Patrol sector officials assessed the miles under operational control using a variety of factors: the numbers of illegal entries, apprehensions and relative risk. CBP attributed the increase in apprehensions to additional infrastructure, technology, and personnel. GAO's preliminary analysis of the 873 border miles under operational control in 2010 showed that about 129 miles (15 percent) were classified as "controlled" and the remaining 85 percent were classified as "managed." Border Patrol stated that operational control does not require its agents to be able to detect and apprehend **all** illegal entries. Yuma sector reported operational control for all its miles although Border Patrol did not have the ability to detect and apprehend illegal entries that use ultra-light aircraft and tunnels.⁵¹

Border Patrol explained that the difference in progress across sectors was due to multiple factors, including prioritizing resource deployment to sectors deemed to have greater risk from illegal activity.⁵²

Border Patrol had established border miles under effective control as a measure of border security, however “DHS is replacing its border security measures.”⁵³

DHS plans to improve the quality of border security measures by developing new measures with a more quantitative methodology. CBP is developing a new methodology and measures for border security, which CBP expects to be in place by fiscal year 2012. In the meantime GAO will continue to assess this issue and report the final results later in 2011.

Conclusion

With vicious ongoing drug cartel battles occurring in bordering Mexican states, heightened terrorist threats and public perception of a border that is not secure, it is safe to say the role of the military will be to continue to support civilian efforts.

Recent meetings between *US Customs and Border Protection* and the Commander of *US Northern Command (USNORTHCOM)* reinforced that “CBP’s relationship with USNORTHCOM demonstrate(s) our ongoing commitment to working with our federal partners to improve and enhance our (border) operations.”⁵⁴

DHS reported that until new measures of border security outcomes are in place the department will report interim measures of performance to provide oversight and accountability of results on the border. However, these measures of performance, such as the number of apprehensions on the southwest border between the ports of entry, do not adequately inform on program results and therefore may reduce DHS accountability of whether or not the border is secure. Studies commissioned have documented that the number of apprehensions bears little relationship to effectiveness, because agency officials do not compare these numbers.

As of February 2011, CBP did not have an estimate of the time and efforts needed to secure the southwest border as it transitions to a new methodology for measuring

border security. In prior years, Border Patrol sectors annually adjusted the estimated resource requirements that they deemed necessary to achieve operational control. Under the new methodology, Border Patrol headquarters officials said that sectors are to be expected to use the existing personnel and infrastructure as a basis for the agency's *defense in depth* approach and focus requests for additional resources on what is necessary to respond to the sectors priority threats for the coming year. DHS, CBP, and Border Patrol headquarters officials said that this new approach to measuring their success to their mission is expected to result in a more flexible and cost-effective approach to border security and resource allocation based on changing risk across location.

To what degree and at what cost the military will continue to support civilian efforts in securing the border is not known. Budget pressures will certainly have an impact on the extent of operations, but the pressures on the border are increasing and public concern about immigration and security is not diminishing. In addition, by definition terrorism is a fluid, evolving organism, and the US response, including that of military support of the border operations and Homeland Security functions, must be adaptive.

The history of the United States/Mexico border, the long story of the US military involvement in the security of the border, is ongoing. It remains unclear what the final outcome shall be. What is clear is that it is unlikely that either country will succeed in sealing off the border, allowing nothing unknown or illegal to pass through.

Should Senators McCain and Kyl be successful in passing their newly introduced legislation, would the southwest border be deemed secure once and for all? Probably not. What is apparent is that there is not an agreed-upon methodology to determine if the border is secure. Until there is consensus from policymakers and operators of what constitutes "Border is Secure," or perhaps until the public perception is satisfied that this "mission is accomplished," then it can never occur. What is clear is that there will not be any absolutes to lawlessness on the Rio Grande...history tells us that and the military will certainly play its continued but evolving role in the Southwest.

Endnotes

¹ Interview with Senator John McCain, KGUN 9 Tucson, AZ, *Senators McCain and Kyl push for enhanced border security*, April 13, 2011, retrieved April 14, 2011.

² National Journal, Chris Strohm, *McCain, Kyl Girding for Border Security Fight*, Wednesday, April 13, 2011 | 3:12 p.m.; retrieved April 14, 2011.

³ Tussing, Bert. "New Requirements for a New Challenge: "The Military's role in Border Security" Homeland Security Affairs, Vol. IV, No. 3(2008) p. 3-16.

⁴ Netzer, Gideon, COL (Ret). "A Generic Model for Cooperative Border Security," Albuquerque: Cooperative Monitoring Center, Sandia National Laboratories. (March 1999) p. 7-11.

⁵ US Customs and Border Protection, Secure Borders, Safe Travel, Legal Trade U.S. Customs and Border Protection Fiscal Year 2009–2014 Strategic Plan. p.9.

⁶ Ibid

⁷ Netzer, Gideon, COL (Ret). "A Generic Model for Cooperative Border Security," Albuquerque: Cooperative Monitoring Center, Sandia National Laboratories. (March 1999) p. 4.

⁸ Retrieved from US Customs & Border Protection: <http://www.cbp.gov/>, (2011, February 5).

⁹ Retrieved from US Customs & Border Protection: <http://www.cbp.gov/>, (2011, February 10).

¹⁰ Retrieved from US Customs & Border Protection: <http://www.cbp.gov/>, (2011, February 10).

¹¹ Andreas, Peter; *Border Games, Policing the US-Mexico Divide*; p.X; Cornell University Press, 2000.

¹² Matt Matthews: U.S. Army on the Mexican border: A Historical Perspective

¹³ Ibid. 46.

¹⁴ Ibid., 75

¹⁵ Retrieved from historynet.com American University "The Mexican Expedition," <http://www.historynet.com>. (February 2011)

¹⁶ John R. Brinkerhoff, "The Posse Comitatus Act and Homeland Security," Internet, www.homelandsecurity.org, (2011, February).

¹⁷ John R. Brinkerhoff, "The Posse Comitatus Act and Homeland Security," Internet, www.homelandsecurity.org, (2011, February).

¹⁸ Bonnie Baker, "The Origins of the Posse Comitatus", Air & Space Power Chronicles, 1 November 1999, p.1.

- ¹⁹ US Armed Forces and Homeland Defense: The Legal Framework, Paul Schott Stevens, p.23.
- ²⁰ US Armed Forces and Homeland Defense: The Legal Framework, Paul Schott Stevens, p.24.
- ²¹ Review of Reviews, The Army and Civil Disorder, Jerry M. Cooper, p. 215.
- ²² Weber, James, R. LTC. "The Posse Comitatus Act of 1878: An Historical Perspective and Implications for Homeland Defense," U.S. Army War College, 2003.
- ²³ Weber, James, R. LTC. "The Posse Comitatus Act of 1878: An Historical Perspective and Implications for Homeland Defense," U.S. Army War College, 2003.
- ²⁴ Netzer, Gideon, COL (Ret). "A Generic Model for Cooperative Border Security," Albuquerque: Cooperative Monitoring Center, Sandia National Laboratories. (March 1999) p. 11.
- ²⁵ Netzer, Gideon, COL (Ret). "A Generic Model for Cooperative Border Security," Albuquerque: Cooperative Monitoring Center, Sandia National Laboratories. (March 1999) p.7
- ²⁶ Ibid p.13-15.
- ²⁷ US Customs and Border Protection, Secure Borders, Safe Travel, Legal Trade U.S. Customs and Border Protection Fiscal Year 2009–2014 Strategic Plan. p. 6.
- ²⁸ Haddal, Chad C., People Crossing Borders: An Analysis of U.S. Border Protection Policies, Congressional Research Service, May 13, 2010, p. 20-21.
- ²⁹ Retrieved from US Department of Homeland Security, Secure and Manage our Borders, Southwest Border, http://www.dhs.gov/xabout/gc_1240606351110.shtm; (April 2, 2011).
- ³⁰ Retrieved from US Drug Enforcement Administration, El Paso Intelligence Center <http://www.justice.gov/dea/programs/epic.htm>. (March 23, 2011).
- ³¹ Retrieved from the Department of Homeland Security, National Network of Fusion Centers Fact Sheet, http://www.dhs.gov/files/programs/gc_1296484657738.shtm. (April 3, 2011).
- ³² Retrieved from Department of Homeland Security, State and Major Urban Area Fusion Centers, http://www.dhs.gov/files/programs/gc_1156877184684.shtm, (April 3, 2011).
- ³³ Retrieved from Border Beat: US Super Intelligence Center Revealed in Mexico, by Jorege Carrasco A, and J. Jesus Esquivel, <http://www.borderlandbeat.com/2010/11/us-espionage-center-revealed-in-mexico.html>, (April 3, 2011).
- ³⁴ Retrieved from Customs and Border Protection, Tactical Infrastructure/Border Fence, http://www.cbp.gov/xp/cgov/border_security/ti/. (April 3, 2011).
- ³⁵ Retrieved from Customs and Border Protection, CBP.Gov. http://www.cbp.gov/xp/cgov/border_security/ti/ti_news/sbi_fence/. (March 22, 2011).

- ³⁶ Retrieved from Washington Business Journal: *Virtual border fence project canceled*. www.bizjournals.com/.../virtual-border-fence-project-canceled.html; (March 21, 2011).
- ³⁷ Aguilar, David, V., National Guard and Border Security Testimony before the House Armed Services Committee. 109th Cong., Sess.2. Washington, D.C. 2006
- ³⁸ Tussing, Bert. "New Requirements for a New Challenge: The Military's role in Border Security," *Homeland Security Affairs* , Vol. IV, No. 3(2008) p.5.
- ³⁹ Tussing, Bert. "New Requirements for a New Challenge: The Military's role in Border Security," *Homeland Security Affairs* , Vol. IV, No. 3(2008) p.6.
- ⁴⁰ Retrieved from US Northern Command website: <http://www.northcom.mil/> (March 21, 2011).
- ⁴¹ U.S. House of Representatives Concurrent Resolution 274, October 2005.
- ⁴² National Guard Bureau, Operation Jump Start Fact Sheet (Washington, D:2006), http://www.ngb.army.mil/features/southwestborder/files/OJS_Fact_Sheet29Sept.doc.
- ⁴³ Retrieved from Govtrack.us: HR 5122: John Warner National Defense Authorization Act 2007 <http://www.govtrack.us/congress/bill.xpd?bill=h109-5122>, (February 22, 2011).
- ⁴⁴ Border Security; Preliminary Observations on Border Control Measures for the Southwest Border; Government Accounting Office Report, February 2011.
- ⁴⁵ Testimony of Secretary Janet Napolitano Before the United States Senate Committee on Homeland Security and Governmental Affairs, "DHS Fiscal Year 2012 Budget Request" http://www.dhs.gov/ynews/testimony/testimony_1297966361476.shtm
- ⁴⁶ Retrieved from US Customs & Border Protection: <http://www.cbp.gov>, (2011, February 10).
- ⁴⁷ Retrieved from US Customs & Border Protection: <http://www.cbp.gov>, (2011, February 10).
- ⁴⁸ US Government Accountability Office; Border Security: Preliminary Observations on Border Control Measures for the Southwest Border, February 15, 2011. GAO-11-374T.
- ⁴⁹ Ibid, p.8.
- ⁵⁰ Ibid p.5-11.
- ⁵¹ Ibid p.5-11.
- ⁵² Ibid p.5-11.
- ⁵³ Ibid p. 12.
- ⁵⁴ Retrieved from US Customs & Border Protection: http://www.cbp.gov/xp/cgov/newsroom/news_releases/national/02072011_3.xml, (2011, February 10).